



JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Marriage and Family Therapy Examiners
Alcohol and Drug Counselor Committee
124 Halsey Street, 6th Floor, Newark, NJ 07102

October 22, 2009

COPY



ANNE MILGRAM
Attorney General

DAVID SZUCHMAN
Director

Mailing Address:
P.O. Box 45040
Newark, NJ 07101
(973) 504-6582

Luis E. Hernandez, LCADC
15 Branch Brook Place, Apt# 2K
Newark, New Jersey 07104

Dear Mr. Hernandez:

Enclosed please find a Provisional Order of Discipline of Licensure ("the POD") filed with the Alcohol and Drug Counselor Committee. As the POD states, the Order will become final on the 30th business day following the entry hereof unless you request a modification or dismissal of the Findings of Facts contained within the POD.

The POD includes specific Findings of Fact and Conclusions of Law. You should carefully review the enclosed Order. The Findings of Fact and Conclusions of Law represent only allegations and a proposed determination of legal liability. If you deem there to be material facts in dispute, please indicate in your response the specific facts you believe are in dispute. In the event that your submission establishes a need for further consideration, a hearing will be scheduled. While the document enclosed is a public record at this juncture, anyone who inquires will be advised that the contents at this time, are not final, and thus are only allegations.

If you fail to respond to the POD, or fail to submit materials or a written argument which warrants an appearance, the Committee will move to finalize the POD in accordance with the time frame set forth in the POD. After the Final Order of Discipline is filed, you will be served with a copy of the Final Order.

Sincerely,
ALCOHOL AND DRUG COUNSELOR COMMITTEE

Elaine L. DeMars
Executive Director

Enclosure
cc: Susan Berger, Deputy Attorney General

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Division of Law, 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Attorney for the New Jersey Alcohol and Drug
Counselor Committee of the State Board of
Marriage and Family Therapy Examiners

By: Susan C. Berger
Deputy Attorney General
Tel. (973) 648-4876

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
ALCOHOL AND DRUG COUNSELOR
COMMITTEE OF THE STATE BOARD OF
MARRIAGE AND FAMILY THERAPY EXAMINERS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :
:
LUIS E. HERNANDEZ :
LICENSE NO. 37LC00149300 :
:
TO PRACTICE ALCOHOL :
AND DRUG COUNSELING :
IN THE STATE OF NEW JERSEY :
:

Administrative Action

PROVISIONAL ORDER
OF DISCIPLINE

This matter was opened to the Alcohol and Drug Counselor Committee ("Committee") of the New Jersey State Board of Marriage and Family Therapy Examiners ("Board") upon receipt of information which the Committee has reviewed and on which the following preliminary findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent is an alcohol and drug counselor in the State of New Jersey and has been a licensee at all times relevant hereto. (See Certification of Elaine L. DeMars, Executive

Director of the Alcohol and Drug Counselor Committee, annexed hereto as Exhibit A and made a part hereof.)

2. On May 8, 2008, the Committee filed a "Consent Order of Licensure With Restrictions" requiring respondent to attend individual, insight-oriented psychotherapy to include boundary issues and further requiring respondent to cause the therapist to provide quarterly reports to the Committee, among other additional conditions. (See Exhibit A; and ¶ 2 of the Consent Order of Licensure With Restrictions of Luis E. Hernandez, annexed hereto as Exhibit B and made a part hereof.)

3. Respondent has failed to attend psychotherapy sessions and has failed to provide quarterly reports to the Committee. On August 13, 2009, respondent admitted, under oath, that he did not attend any counseling or therapy for over one year. (See Exhibit A; and p.45 Transcript, Board of Alcohol & Drug Counselor Examiners - In Re: Luis Hernandez, Aug. 13, 2009, annexed hereto as Exhibit C and made a part hereof.)

CONCLUSIONS OF LAW

Pursuant to N.J.A.C. 13:45C-1.4, a licensee's failure to comply with an order of the Board or Committee is deemed professional or occupational misconduct. Respondent's failure to comply with the "Consent Order of Licensure With Restrictions" constitutes professional or occupational misconduct and provides grounds for the suspension of respondent's license to practice alcohol and drug counseling in New Jersey pursuant to N.J.S.A. 45:1-21(e).

ACCORDINGLY, IT IS on this 26th day of October, 2009,

ORDERED that:

1. Respondent's license to practice alcohol and drug counseling in the State of New Jersey be and hereby is provisionally suspended unless and until respondent demonstrates compliance with paragraph 2 of the "Consent Order of Licensure With Restrictions."

2. The within Order shall be subject to finalization by the Board at 5:00 p.m. on the 15th business day following entry hereof unless respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to Elaine L. DeMars, Executive Director, Alcohol and Drug Counselor Committee, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101.

b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor or offered in mitigation of the terms in this Provisional Order of Discipline.

d) Any submissions will be reviewed by the Committee, and the Committee will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a submission during the fifteen-day period, or if the Committee is not persuaded that submitted materials merit further consideration, a Final Order of Discipline will be entered.

3. In the event that respondent's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the Findings of Fact and Conclusions of Law contained herein shall serve as notice of the factual and legal allegations in such proceeding. Further, in the event a hearing is held, upon review of the record, the Board shall not be limited to

the findings, conclusions, and sanctions set forth in this order and may, if the factual and legal allegations have been proven, order such sanctions or other remedies as it may deem appropriate, including costs.

ALCOHOL AND DRUG COUNSELOR
COMMITTEE OF THE STATE BOARD OF
MARRIAGE AND FAMILY THERAPY EXAMINERS

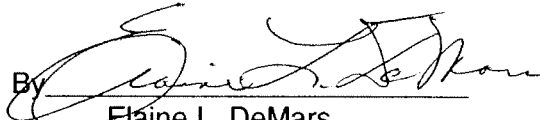
By 
Elaine L. DeMars
Executive Director

EXHIBIT A

ANNE MILGRAM
Attorney General of New Jersey
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

Attorney for the New Jersey Division
of Consumer Affairs and the
Alcohol and Drug Counselor
Committee of the New Jersey State Board
of Marriage and Family Therapy Examiners

By: Susan C. Berger
Deputy Attorney General
(973) 648-4876

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
ALCOHOL AND DRUG COUNSELOR COMMITTEE OF
THE STATE BOARD OF MARRIAGE AND FAMILY
THERAPY EXAMINERS

IN THE MATTER OF THE
SUSPENSION OR REVOCATION OF THE :
LICENSE OF

Administrative Action

LUIS E. HERNANDEZ
LICENSE NO. 37LC00149300

CERTIFICATION

TO ENGAGE IN THE PRACTICE OF :
ALCOHOL AND DRUG COUNSELING IN :
THE STATE OF NEW JERSEY :

I, Elaine L. DeMars, of full age, certify as follows:

1. I am the Executive Director of the Alcohol and Drug
Counselor Committee of the New Jersey State Board of Marriage and
Family Therapy Examiners (the "Committee"), with offices located at
124 Halsey Street, Newark, New Jersey 07102 and I am the official

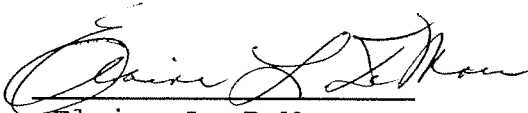
custodian of the records of the Committee and have diligently searched the records for the Committee.

2. On May 8, 2008, the Committee filed a "Consent Order of Licensure With Restrictions" requiring respondent to attend individual, insight-oriented psychotherapy to include boundary issues and further requiring respondent to cause the therapist to provide quarterly reports to the Committee, among other additional conditions.

3. The respondent was issued a license as an Alcohol and Drug Counselor on May 21, 2008. Respondent is currently licensed as an Alcohol and Drug Counselor.

4. The Committee has not received any quarterly reports from Respondent's therapist.

I certify that all the foregoing statements made by me are true and that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Elaine L. DeMars


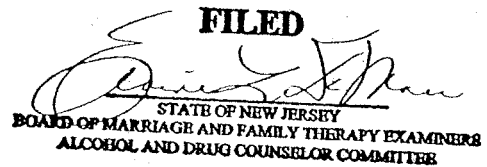
Date: October  , 2009.

EXHIBIT B

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Division of Law, 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Attorney for the New Jersey Alcohol and Drug
Counselor Committee of State Board of
Marriage and Family Therapy Examiners

By: Nancy Costello Miller
Deputy Attorney General
Tel. (973) 648-4735



STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
ALCOHOL AND DRUG COUNSELOR
COMMITTEE OF STATE BOARD OF MARRIAGE
AND FAMILY THERAPY EXAMINERS

IN THE MATTER OF THE
APPLICATION OF

LUIS E. HERNANDEZ

FOR LICENSURE TO PRACTICE
ALCOHOL AND DRUG COUNSELING
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER OF
LICENSURE WITH
RESTRICTIONS

This matter was opened before the Alcohol and Drug Counselor Committee of the New Jersey State Board of Marriage and Family Therapy Examiners ("Committee") upon receipt of an application from Luis E. Hernandez ("respondent") for licensure as an alcohol and drug counselor. Following review of the application and background information, the Committee, in December 2005, issued a Provisional Order of Denial of Licensure, which preliminarily found that respondent had engaged in professional misconduct in the State of

Florida by fraternizing with a counselor he was supervising and by holding a client's money in his personal checking account. The Order invited respondent to supply information for the Committee's consideration and/or to seek modification or dismissal prior to finalization of that order.

Respondent did not submit anything in response to the Provisional Order within the time frame provided. Nonetheless, the Committee offered respondent one final opportunity to reply and advised respondent if he failed to do so, the Committee would conclude that the allegations in the provisional order were true. In response, by letter dated June 16, 2006, Mr. Hernandez advised the Committee that he would "accept the consent order as written." Concerned that respondent did not understand the process, the Committee entered into discussions with him. Based on those discussions, the Committee determined that additional information would assist it in its review of respondent's application. The Committee directed respondent to submit to a psychological evaluation.

The Committee has now had an opportunity to review the report of Frank J. Dyer, Ph.D., a licensed New Jersey psychologist. Based on his examination, Dr. Dyer has concluded that while respondent has not yet gained adequate insight into his behavior, "[h]is psychological conflicts evidently do not interfere with his ability to counsel difficult clients under the supervision of an employer." In light of that evaluation and other information in the application record, the Committee has concluded that it will issue respondent a license to practice with restrictions and conditioned on his compliance with certain requirements. Respondent shall be required to attend psychotherapy sessions as directed by this order, with quarterly reports to the Committee, shall attend and successfully complete a Committee approved ethics course, and shall not engage in independent practice of alcohol and drug counseling for a minimum of one year and until further review by the Committee. With these restrictions, the Committee finds that the public health, safety, and welfare will be adequately

protected. Upon respondent's signing of this order, the Committee has agreed to finalize its Provisional Order through the entry of this consent order.

THEREFORE, IT IS ON THIS 8th DAY OF May, 2008,
ORDERED AND AGREED

1. Upon payment of all applicable fees, a restricted license to practice alcohol and drug counseling as a certified alcohol and drug counselor will be issued to Luis Hernandez, which license is conditioned upon his compliance with the terms of this order.
2. Respondent shall attend individual, insight-oriented psychotherapy to include boundary issues, with a Committee approved psychotherapist at least once per week on an ongoing basis, until such time as the therapist recommends termination and the Committee approves that termination. Respondent shall cause the therapist to provide quarterly reports to the Committee regarding his progress in therapy and the therapist shall immediately report to the Committee in writing any information that reflects that respondent is not able to practice alcohol and drug counseling consistent with the public health, safety, and welfare.
3. Respondent shall not engage in the independent practice of alcohol and drug counseling for a minimum period of one year. Respondent shall engage in practice only in a supervised setting. Respondent shall provide a copy of this order to his supervisor(s) who shall acknowledge their obligations by signing a copy of the order, which respondent shall return to the Committee. Respondent shall cause his supervisor(s) to provide quarterly reports to the Committee regarding his practice. Such supervisors shall immediately report to the Committee in writing any information that respondent has engaged in behavior that raises issues regarding appropriate professional boundaries, or that is in violation of any statute or regulation governing the practice of alcohol and drug counseling, or that reflects that respondent is not able to practice alcohol and drug counseling consistent with the public


health, safety, and welfare. Respondent shall provide the Committee with a list of all places of employment and supervisors in each setting.

4. Respondent shall fully attend, successfully complete, and pass an ethics course prior to issuance of his license. Respondent shall complete either the ProBE (Professional Problem Based Ethics) course offered by The Ethics Group, 89 Summit Avenue, Suite 185, Summit, New Jersey 07901, or the PRIME (Professional Renewal in Medicine through Ethics) course offered by the Center for Continuing Education in the Health Professions at UMDNJ-Robert Wood Johnson Medical School, 97 Paterson Street, Room 124, New Brunswick, New Jersey 08903. Documentation of full attendance and successful completion of the course shall be provided to the Committee prior to issuance of his license.

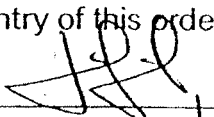
5. Upon receipt of reliable information that respondent has violated the terms of this order or has engaged in conduct that violates any statute or regulation administered by the Committee, the Committee may move on short notice to temporarily suspend respondent's license to practice alcohol and drug counseling in this State and, after an opportunity to be heard, to impose such discipline as appropriate.

6. This order resolves all issues raised by the Provisional Order of Denial of License entered in December 2005.

ALCOHOL AND DRUG COUNSELOR COMMITTEE OF
THE STATE BOARD OF MARRIAGE AND
FAMILY THERAPY EXAMINERS


By: Edward Reading, Ph.D., LCADC
Committee Chair

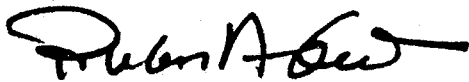
I have read and understand this consent order and agree to be bound by its terms. I consent to the entry of this order.


Luis E. Hernandez

5/1/8
Date

I have read and understand the terms of this consent order as it relates to the obligations of a supervisor for the licensee.

I agree to supervise Mr. Hernandez and to comply with the terms of this consent relating to that supervision.


(signature)

Ruben Abreu, MS LCADC CCS CPS CJC.
(print name and degree and license held)

5/1/08
Date

EXHIBIT C

NEW JERSEY STATE BOARD OF
MARRIAGE AND FAMILY THERAPY

ALCOHOL AND DRUG COUNSELOR COMMITTEE

PROFESSIONAL COUNSELOR EXAMINERS COMMITTEE

IN RE: LUIS HERNANDEZ

HELD AT: 124 Halsey Street, 6th floor
Newark, NJ

IN ATTENDANCE:

BARRY MASCARI, EDD, LPC, LCADC, PROFESSIONAL
COUNSELOR EXAMINERS COMMITTEE
EDWARD READING, Ph.D., LCADC, ALCOHOL AND DRUG
COUNSELOR COMMITTEE
SUSAN BURGER, DAG
ELAINE L. DeMARS, EXECUTIVE DIRECTOR
CELESTE PAIGE, ADMINISTRATIVE STAFF

HELD ON: Thursday, August 13, 2009

REPORTED BY: Justin Davis, Professional
Court Reporter

CLASS ACT REPORTING AGENCY

Registered Professional Reporters

1420 Walnut Street 133H Gaither Drive

Suite 1200 Mt. Laurel, NJ 08054

Philadelphia, PA 19103 856-235-5108

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EXAMINATION INDEX

LUIS HERNANDEZ
BY MS. BURGER 10

(Whereupon, the proceeding
commenced at 12:13 p.m.)

MS. BURGER: Good afternoon,
Mr. Hernandez. My name is Susan Burger, I believe
we have met before.

MR. HERNANDEZ: Yes, we have.

MS. BURGER: As you have been previously
advised, I am counsel to the Alcohol and Drug
Counselors and Professional Counselor Committee of
the Board of Marriage and Family Therapy
Examiners. We've called you in today for what is
called an investigative inquiry.

We've received some kind of information
about your employment that you were either
suspended or terminated, we don't exactly know, and
we want to ask you some questions.

MR. HERNANDEZ: Yes, Ms. Burger.

MS. BURGER: Now, I believe you received a
letter that we invited you to come in today.

MR. HERNANDEZ: I have not received a
letter yet.

MS. BURGER: You didn't received a
letter.

You received a telephone call?

MR. HERNANDEZ: I did.

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1 MS. BURGER: Then it is all the more
2 important that I tell you about some of the rights
3 that you have. You know that you have a right to
4 be represented by an attorney.

5 Do you wish to be represented by an
6 attorney?

7 MR. HERNANDEZ: No, there is no need.

8 MS. BURGER: Do you wish to proceed
9 without an attorney?

10 MR. HERNANDEZ: Yes.

11 MS. BURGER: And it is very clear that you
12 know that you have the right to an attorney.

13 MR. HERNANDEZ: Yes, I know I have the
14 right to an attorney.

15 MS. BURGER: And if, at any point, we ask
16 you any questions in which you decide that you need
17 an attorney, please ask us for an adjournment,
18 we'll stop, give you a couple of days to get an
19 attorney, and we'll give you a couple of days to
20 get an attorney.

21 MR. HERNANDEZ: Thank you.

22 MS. BURGER: You do understand that?

23 MR. HERNANDEZ: Yes, I do.

24 MS. BURGER: If for any reason you need a
25 break, tell us that you need a break, and we'll

1 later point, he may make a record of that.

2 MR. HERNANDEZ: Yes.

3 MS. BURGER: So it is very important that
4 you give us truthful and accurate answers, because
5 we are going to be able to look at them afterwards,
6 and we are going to be able to see what you said.

7 MR. HERNANDEZ: I understand.

8 MS. BURGER: It is also very important
9 since he is taking everything down that you give
10 verbal answers.

11 MR. HERNANDEZ: Yes.

12 MS. BURGER: It is a very natural thing to
13 shake your head and to nod.

14 MR. HERNANDEZ: I understand.

15 MS. BURGER: But he can't get that down.

16 MR. HERNANDEZ: I understand.

17 MS. BURGER: In a moment, we are going to
18 ask him to swear you in, but I just want to tell
19 you a couple more things.

20 Now, as a licensee, you have a duty to
21 cooperate with this Committee. And if we ask you a
22 question and you get additional information later
23 on, it is important that you provide us with any
24 additional information.

25 MR. HERNANDEZ: Yes.

6

8

1 take a short break, and then we'll resume.

2 MR. HERNANDEZ: Maybe some water, I'm kind
3 of parched.

4 MS. BURGER: What about soda?

5 MR. HERNANDEZ: No, that's okay then.

6 MS. BURGER: But we'll get you some -- you
7 know what, we are going to take a break in two
8 seconds, and we'll get some water.

9 Or if you want -- do you need water now?

10 MR. HERNANDEZ: No, I can hold on.

11 MS. BURGER: But if at some point you need
12 water, please stop and tell us that you need a few
13 minutes to get some water, okay?

14 MR. HERNANDEZ: All right.

15 MS. BURGER: We want you to be able to
16 give us honest and truthful answers.

17 MR. HERNANDEZ: And that's why I'm here.

18 MS. BURGER: We don't want you to feel
19 that you can't give us honest and truthful answers
20 because you are thirsty or something like that.

21 MR. HERNANDEZ: No.

22 MS. BURGER: Sitting next to you is a
23 lovely gentleman, and he's taking down every word I
24 say. He's called a court reporter, and he
25 transcribes everything that we say, and at some

1 MS. BURGER: So you have an ongoing duty
2 to cooperate. Following this inquiry, we are going
3 to go back to the full Committee, and they are
4 going to probably see the transcript and read it,
5 and then they will decide what, if anything, should
6 be done.

7 MR. HERNANDEZ: Yes.

8 MS. BURGER: But as you see right now,
9 this is a very abbreviated Committee. I have the
10 board president of the Professional Counselors
11 here, and I have the chair for the Alcohol and Drug
12 Counselors.

13 MR. HERNANDEZ: Yes.

14 MS. BURGER: They are going to introduce
15 themselves to you in one moment. So that this
16 Committee, this Subcommittee can't make any
17 decisions, it has to go back to the full Board.
18 Now, you've been before this Board, so you know
19 there is a range of actions the Board can take,
20 anything from the suspension or revocation of your
21 license, a reprimand, or a determination that there
22 is no cause for further action. It is a whole
23 range.

24 MR. HERNANDEZ: I understand.

25 MS. BURGER: But we will get back to you.

1 But you know this Board generally meets once a
2 month.

3 MR. HERNANDEZ: Yes, I do.

4 MS. BURGER: So the fact that we don't get
5 right back to you doesn't mean they have started
6 anything or are not working on it, it just takes
7 time.

8 MR. HERNANDEZ: I understand.

9 MS. BURGER: If at any time we ask you any
10 question that effects your Fifth Amendment
11 privilege against self-incrimination, you can
12 assert your Fifth Amendment privilege, but then you
13 have to claim how that would effect -- how you
14 could be brought up on criminal proceedings.

15 MR. HERNANDEZ: I understand.

16 MS. BURGER: Just remember -- and the most
17 important thing is that you are truthful and
18 accurate. Now, if there are any documents that you
19 brought with you that will assist you in answering
20 your questions, please tell us what it is and
21 look.

22 MR. HERNANDEZ: Yes, I do have it.

23 MS. BURGER: Good, that's fine. If you
24 need it, at some point, you can read it, just tell
25 the Board you are reading it.

1 A. Yes, I have been.

2 Q. Both Committees?

3 A. Yes, I have.

4 Q. So you are familiar with what goes on. We
5 are going to ask you a series of questions, you are
6 going to answer it.

7 A. Yes.

8 Q. Let's start off with a little background.
9 Are you working today?

10 A. Not today.

11 Q. When was the last time you worked?

12 A. The last day I worked was Sunday, I was
13 suspended on Monday.

14 Q. And where were you suspended from?

15 A. The Therapeutic Alliance Group, the only
16 company that I'm working with.

17 Q. Do you do any other work?

18 A. This is the only company I'm working with.

19 Q. And counseling is the only thing you do?

20 A. Counseling is the only thing I do.

21 Q. Do you also fix cars?

22 A. Only my daughter's and my son's and my own.

23 Q. You don't do it for friends?

24 A. No.

25 Q. You don't fix cars for friends?

1 MR. HERNANDEZ: Okay.

2 MS. BURGER: Because this isn't a memory
3 test, it is an attempt to get truthful and honest
4 answers.

5 MR. HERNANDEZ: Yes.

6 MS. BURGER: Have you understood
7 everything I've said until now?

8 MR. HERNANDEZ: Yes.

9 MS. BURGER: I'll introduce you to
10 everybody.

11 MR. MASCARI: Barry Mascari, Professional
12 Counselor Committee.

13 DR. READING: Ed Reading, Alcohol and Drug
14 Counselors.

15 MS. BURGER: The other person sitting here
16 is Elaine DeMars, she's the executive director, she
17 just stepped out for a minute. And also, Celeste
18 Paige is here.

19 Would you swear in the witness?

20 (Whereupon, LUIS HERNANDEZ, being duly
21 sworn, was examined and testified as follows:

22 EXAMINATION

23 BY MS. BURGER:

24 Q. You were in before this Committee once
25 before; is that correct?

1 A. I might do it for a friend. I try not to.

2 Q. But you don't have any business in
3 which --

4 A. No.

5 Q. So you only do --

6 A. I do my car, and not all of it either.

7 The exhaust manifold last week for my daughter, I
8 had Meineke do it even though I did the brakes.

9 Q. So tell us about -- so you are saying you
10 got suspended.

11 What happened?

12 A. My boss called me and --

13 Q. Who is your boss?

14 A. Tracy Hans, she's an LPC.

15 Q. Now, that's also the same person who
16 signed the consent order as your supervisor; is
17 that correct?

18 A. That's correct.

19 Q. So what happened?

20 A. She wanted me to respond to an inquiry,
21 and I did so in writing.

22 Q. Did she meet with you in person?

23 A. No, over the phone.

24 Q. When did she call you?

25 A. I believe it was that Monday.

13

15

1 Q. She called you on Monday, and what did she
2 say to you?
3 A. She said, Luis, there is an inquiry, I
4 need you to respond to it. She asked me the
5 questions about the inquiry, and then she said,
6 well, I need that in writing.
7 Q. What did she ask you?
8 A. She asked me if there were any
9 inappropriate action with America Ramos. And I
10 explained --
11 Q. Who is America Ramos?
12 A. America Ramos is the mother of Roger
13 Sanchez. Roger Sanchez is a child that was
14 referred to us in -- it could have been September
15 or October of 2008.
16 Q. So did you treat -- what is the child's
17 first name, I'm sorry?
18 A. Roger.
19 Q. Did you treat Roger Sanchez?
20 A. Yes, I did.
21 Q. You cared for him?
22 A. Yes, I did.
23 Q. Where?
24 A. At the home of the child and the father.
25 Q. Where is that?

1 Q. So are you telling us on 16 occasions you
2 went into the home?
3 A. I went on eight occasions to the home,
4 two-hour sessions mostly.
5 Q. And who did you talk to?
6 A. There was Roger Sanchez, the child.
7 Q. Did you sit with him alone?
8 A. No, not always.
9 Q. Where did meet with him?
10 A. Right at the home.
11 Q. Where, what room?
12 A. Right in the living room mostly.
13 Q. You met with the child in the living
14 room.
15 What time of day?
16 A. Usually it would be from after school,
17 3:00 to 5:00, or 4:30 to 6:00, around that time.
18 Q. Did you take notes?
19 A. Excuse me?
20 Q. Did you take notes?
21 A. Yes. And there is some progress notes and
22 I -- Tracy has the progress notes.
23 Q. What did you talk about with Roger?
24 A. Mostly about his interaction with the
25 mother, what occurred, how he was feeling about it,

14

16

1 A. 2141 Aldrin Road, Ocean Township, New
2 Jersey 07712, Apartment A2.
3 Q. How long did you counsel him?
4 A. I believe that the authorization was for
5 64 units, which means for 16 hours.
6 Q. 16 hours. And tell us what kind of
7 counseling you reached.
8 A. It's called IIC Services, it is in
9 community -- in home in community counseling.
10 Q. What were you doing?
11 A. The referral came as a result of a DYFS
12 allegation of the mother having hit the child. The
13 mother, on May 4th, had hit the child with a spoon
14 on his back, and the mother was removed from the
15 house. Actually, she was incarcerated for 12 days,
16 removed from the home. And the part that
17 Therapeutic Alliance Group, the company that I work
18 with, was involved with was to A, assess to see if
19 there was any trauma with the child; and B, to
20 start the reunification process.
21 I think that the mother had either
22 completed, or was near completing parenting skills
23 and anger management, and whatever else she had to
24 do on her part. So DYFS wanted to make sure that
25 the family was ready for that reunification.

1 and what had occurred until then.
2 Q. Was the mother ever your client?
3 A. No, she was never there.
4 Q. Was the father ever your client?
5 A. The father was there on maybe two or three
6 occasions, but he was never my client. Well, I
7 guess the family would be.
8 Q. So who was with Roger?
9 A. Usually there would be three people,
10 sometimes four. The father would be there, Rogelio
11 Sanchez, the older brother of Roger Sanchez.
12 Q. How old is he?
13 A. He's 19 years old. His name is Rogelio
14 Sanchez, Jr. His sister, Jasmin Sanchez, 17 years
15 old; and his other sister, Griseldy Sanchez, 14
16 years old.
17 Q. Were they also your clients?
18 A. No, just Roger.
19 Q. Only Roger was your client?
20 A. Only Roger was my client?
21 Q. So you met with Roger on eight occasions.
22 Then what happened?
23 A. After the case was over --
24 Q. I'm sorry, when was the last time you met
25 with Roger in the home?

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17

19

1 A. I believe it was in November, late
 2 November of 2008, maybe early December.
 3 DR. READING: What is Rodger's mother's
 4 name?
 5 THE WITNESS: Her name is America. Her
 6 last name is Ramos, R-A-M-O-S.
 7 MR. MASCARI: Who is Erica Ramos?
 8 THE WITNESS: Erica Ramos? There is no
 9 Erica Ramos. There is Erica Barajas, that is my
 10 ex-girlfriend.
 11 BY MS. BURGER:
 12 Q. So you saw Roger Sanchez until November
 13 '08?
 14 A. Yes, I did.
 15 Q. Did you do a termination note?
 16 A. Yes, I did.
 17 Q. And after you terminated, did you have an
 18 indication to see him again?
 19 A. I saw him again, yes.
 20 Q. When?
 21 A. I think in May or June of this last year.
 22 Q. And why did you see him again, in May '09?
 23 A. In January of -- if I may?
 24 Q. Okay.
 25 A. In January of 2009, I received a call from

1 on this document now.
 2 (Whereupon, Exhibit S1 marked
 3 for identification.)
 4 BY MS. BURGER:
 5 Q. So you wrote S1?
 6 A. I'm writing S1 on it now.
 7 Q. Right.
 8 A. I saw her again on June 5th. I received a
 9 telephone call from America Ramos, she stated, and
 10 I'm going to read right from the document.
 11 Q. Okay. The only thing is when you read,
 12 you tend to go very quickly, so we have to go a
 13 little slower, because we want the reporter to make
 14 a good record.
 15 A. I will make sure. On June 5th, I received
 16 a telephone call from America Ramos, she stated
 17 that the father of the child, Roger, had assaulted
 18 her this past week again, and she needed help.
 19 Q. Did you suggest that she come into your
 20 office?
 21 A. No, not at all.
 22 Q. You didn't consider her becoming a client?
 23 A. No, not at all.
 24 Q. Okay. Did you advise DYFS of your
 25 concern?

18

20

1 America Ramos, the mother of Roger Sanchez. By
 2 now, she had been returned to the home by the
 3 Division of Youth and Family Services. She called
 4 me to ask information regarding domestic violence
 5 issues. I gave her the domestic violence hotlines
 6 and explained procedures to making someone safe in
 7 the case of domestic violence. She had stated at
 8 the time that this information was for her friend.
 9 Q. When did you next see her?
 10 A. I received another phone call in June, I
 11 think it is. Can I refer to the notes? I just
 12 have the timeline here.
 13 Q. Sure.
 14 A. I think you have a copy, if not, I can
 15 make one available.
 16 Q. Sure, you can look at that.
 17 A. Thank you.
 18 Q. On the bottom of the page, just write S1
 19 so we know what you are taking about.
 20 And S1 is -- could you identify what that
 21 document is?
 22 A. This is the response to the inquiry.
 23 Q. Did you write S1, was that prepared by
 24 you?
 25 A. This was prepared by me. I'm writing S1

1 A. No, not at all.
 2 Q. What did you do next?
 3 A. If I may read, then I will explain that,
 4 if that's okay, because I think this will help to
 5 explain.
 6 Q. Well, we've read that, so we are going to
 7 need for you to explain it to us.
 8 A. Okay.
 9 Q. So June '09 you get a call from America?
 10 A. Yes.
 11 Q. Then what happened?
 12 A. Well, it was clearly a domestic violence.
 13 Q. How was it clearly a domestic violence,
 14 you get a telephone call?
 15 A. This is what she said.
 16 Q. She alleges to you that it was a domestic
 17 violence?
 18 A. Right.
 19 Q. Then what do you do next?
 20 A. I suggested that she go to the police.
 21 Q. Did you go with her?
 22 A. Yes, I did.
 23 Q. Was she your client?
 24 A. No, she wasn't.
 25 Q. Why would you go with her?

21

23

1 A. Well, I have gone with other people to the
2 police station, including my daughter.
3 Q. But your daughter is your family.
4 A. Yes, and friends.
5 Q. But why would you go with somebody who
6 previously you were the counselor for the son, why
7 would you be going with her to the police station?
8 A. She asked me to, and I said yes.
9 Q. Are you friends with her?
10 A. Well, America doesn't have any family
11 here, no family at all. She doesn't speak
12 English. She doesn't.
13 Q. Did you tell your boss you were going with
14 her?
15 A. No, I did not.
16 Q. Why not?
17 A. She called me -- it was so sudden.
18 Q. What day of the week did she call you?
19 A. I believe that June 5th was either a
20 Sunday or a Monday.
21 Q. On Tuesday did you tell your boss?
22 A. No, I did not.
23 Q. Why not?
24 A. I did not tell my boss.
25 Q. Did you pull out Sanchez's, Rodger's chart

22

1 and put something in it that you went with America
2 to the police station?
3 A. No, I did not.
4 Q. Why not?
5 A. I failed to do so.
6 Q. Why?
7 A. The way that I was just in the helping
8 mode, and I was just trying to get her situated,
9 getting her to a shelter, get her to the police
10 station, and I did not. I did not make a note, I
11 did not call my boss, I did not. I saw this as a
12 separate incident from what had happened before,
13 and I figured let me just help her and get her on
14 her way.
15 Q. So you went with her to the police
16 station.
17 What happened at the police station?
18 A. They called the judge and the judge heard
19 the information and issued a temporary restraining
20 order.
21 Q. And then what happened?
22 A. I called information, and I got the
23 telephone number for the nearest shelter. And the
24 nearest shelter asked to talk to her, they had a
25 counselor in Spanish. And they arranged to meet

1 with her somewhere to pick her up, and that's what
2 they did.
3 Q. And when did you next speak to America?
4 A. I think maybe the next day.
5 Q. Tell us about the conversation you had
6 with her the next day.
7 What date are we talking about, June 9th?
8 A. Yes, the next day right after, I think.
9 She wanted to know if I was going to take her to
10 the court to issue a permanent restraining order.
11 Q. What happened, did you take her to court?
12 A. Yes, I did.
13 Q. When you went into court with her, did the
14 judge ask you any questions?
15 A. No, the judge did not ask me any
16 questions, no.
17 Q. So you just sat in the back of the
18 courtroom?
19 A. Yes, I did.
20 Q. She had her hearing?
21 A. Yes, she did.
22 Q. And what happened?
23 A. The judge found that there was
24 insufficient evidence to give a permanent order.
25 Q. So then what happened?

24

1 A. He stated that there was no evident
2 bruising, that she had lapsed. The day of the
3 incident was in late May, she reported it in June,
4 that there was such a lapse. She had returned with
5 the perpetrator. The judge said he couldn't grant
6 it.
7 Q. So she finishes court, she doesn't get the
8 order, what happens next?
9 A. She goes back to the shelter.
10 Q. Then where do you go?
11 A. I come home.
12 Q. What happens next, did you see her?
13 A. Yes, I did.
14 Q. What happened?
15 A. I have a summer rental in Neptune City, 77
16 Union.
17 Q. Yes.
18 A. On June -- I believe it is June 9th, I'm
19 not sure, if I can refer.
20 Q. Yes, look at your notes.
21 A. Yes, I want to make sure, I don't want to
22 give you -- the date that the restraining order was
23 dismissed was June 16th.
24 Q. June 16th, the restraining order
25 dismissed?

25

27

1 A. The temporary restraining order. On June
2 19th, three days later America comes over, does not
3 call.
4 Q. Comes over to where?
5 A. To where I am in 77 Union.
6 Q. Where you are working?
7 A. No, it was at night.
8 Q. Where does she come to?
9 A. She came to 77 Union Avenue, Neptune City
10 New Jersey 07752.
11 Q. How did she know to come there?
12 A. I have had this place there since early
13 May, since first I had rented this place.
14 Q. How does she know that?
15 A. Well, she was at the shelter, and I think
16 that shelter is a Monmouth County shelter in Asbury
17 Park. While I was transporting her back and forth,
18 it was known that I was there.
19 Q. How was it known?
20 A. When we went to the police station, they
21 asked me, the policeman asked me where I was
22 living. America asked me where I was living I had
23 told her, I wasn't lying --
24 Q. Do you usually tell your clients where you
25 live?

1 an temporary restraining order, yet again. Not the
2 same police department, the other one was Ocean
3 County, this is Neptune. They issued a temporary
4 restraining order again.
5 Q. They did issue a --
6 A. Yes, they did.
7 Q. And then where did she go?
8 A. She stayed at 77 Union.
9 Q. She stayed at your house?
10 A. Yes, she stayed there.
11 Q. Why?
12 A. Well, one, she hadn't called the shelter,
13 which has a rule that she is not supposed to stay
14 out until 9:00 p.m., and two, she was afraid to go
15 back to the shelter. She thinks that he had
16 followed her there before, and now she was really
17 afraid.
18 Q. So you had her come stay at your house?
19 A. Yes, I let her stay there.
20 Q. So on the 20th, did you go to work?
21 A. On the 20th, yes, I did, I'm sure I did.
22 Q. Did you tell Tracy?
23 A. No, I did not.
24 Q. Why not?
25 A. Again, I didn't see America as a client, I

26

28

1 A. No, I don't tell my clients where I live.
2 Q. Why were you telling her where you lived?
3 A. I didn't see America as a client, I was
4 just helping her out.
5 Q. But her son was your client.
6 A. Her son had been a client, yes.
7 Q. So now we are talking about the 19th.
8 She knows where you live and she just
9 shows up at your house?
10 A. She shows up at the house.
11 Q. And what do you do, do you call the
12 police?
13 A. She says, I think I'm being followed.
14 Q. Did you call the police?
15 A. I said by whom, she said my husband. And
16 right then and there, he passes by, and passes by,
17 and passes by. And, yes, I called the police, I
18 didn't even hesitate. The police is two blocks
19 away, thank God, they were there in a minute. And
20 even though his car was parked around the corner
21 when I went with the flashlight, he ducked, and I
22 saw him. And I called the police right away.
23 Q. What did the police say?
24 A. The police came, they looked for him, they
25 didn't see him, he left. They offered her to issue

1 was --
2 Q. But you knew that America was the mother
3 of your client?
4 A. Yes.
5 Q. And you didn't see any reason to tell your
6 boss this, your supervisor.
7 You were being supervised; correct?
8 A. Yes, I was.
9 Q. So why didn't you tell her, I just don't
10 get it, explain it to me.
11 A. Again, I did not see -- I thought I was
12 doing America a favor helping her out.
13 Q. So the 19th, you let her sleep in your
14 apartment?
15 A. She stayed there.
16 Q. Where?
17 A. Right there.
18 Q. Where? How many rooms in your apartment?
19 A. I have two.
20 Q. Tell me what your apartment looks like.
21 A. It is not that big. It is a bungalow,
22 summer rental. It has a living room with a sofa
23 bed, and it has a kitchen. And to the right, it
24 has a bathroom, then a hallway, then on the other
25 side it has a bedroom. It has a wall, it is --

29

31

1 around and it has doors.
 2 Q. Was anyone else living with you?
 3 A. No.
 4 Q. You were living alone?
 5 A. Yes.
 6 Q. So where did she sleep?
 7 A. She slept in the bedroom.
 8 Q. She slept in the bedroom?
 9 A. Yes.
 10 Q. And where did you sleep?
 11 A. In the sofa bed.
 12 Q. Did you change the sheets?
 13 A. Yes, I did.
 14 Q. So now we are talking about -- you wake up
 15 and it is the 20th.
 16 A. Yes.
 17 Q. What happens that morning, you go straight
 18 to work?
 19 A. Well, not straight to work, but I did pick
 20 up some things, and I told her that she could stay
 21 there, that I think that that was a safe place to
 22 stay, that we would start looking for another
 23 shelter or somewhere else to stay. I asked her to
 24 start calling her friends to see where she can find
 25 somewhere that she can stay, and I went to work.

1 as a client, and there was no reason for
 2 documentation, that's why.
 3 Q. Okay. We are up to the 20th, you left
 4 from work.
 5 What happened when work was over?
 6 A. Well, I gathered some things, and I moved
 7 out. I said, you can stay here until -- I didn't
 8 take everything, I took some things, enough for a
 9 week. I figured that would give her sufficient
 10 time for her to find another place. The next
 11 available shelter --
 12 Q. Where did you go?
 13 A. To my apartment in Newark.
 14 Q. What kind of apartment do you have in
 15 Newark?
 16 A. I have a rental apartment in Newark. It
 17 is a one bedroom, similar to -- except it is a
 18 hardwood floor, and it is a little nicer by
 19 Branch Brook Park.
 20 Q. So for the whole week from the 20th to the
 21 28th you lived in Newark?
 22 A. From that day I have lived in Newark to
 23 this day.
 24 Q. So you never went back to Neptune?
 25 A. Yes, I went back to Neptune.

30

32

1 Q. So you go to work.
 2 Did you tell anybody at work what
 3 happened?
 4 A. No, I did not.
 5 Q. Why not?
 6 A. Again, I thought that this was a private
 7 matter and --
 8 Q. How is it private? Somebody had a real
 9 problem, a potential domestic violence, and you
 10 reported it to police.
 11 A. Yes.
 12 Q. The police wrote out a temporary
 13 restraining order right then and there.
 14 How is that private?
 15 A. Well, again, and I go back to just the
 16 method that I've done work or helped other people
 17 of domestic violence, make sure they are in a safe
 18 place. And I don't really go around telling my
 19 colleagues or anyone at work, I just don't. I just
 20 didn't and I just don't.
 21 Q. And did you write it down anywhere what
 22 you did?
 23 A. No, I didn't write anything down.
 24 Q. You didn't keep any records?
 25 A. Didn't keep any records. I didn't see her

1 Q. When did you go back to Neptune?
 2 A. I have gone back to Neptune back and forth
 3 many times.
 4 Q. So when was the next time you went back to
 5 Neptune?
 6 A. I think that the next time was at the end
 7 of that week to pick up some clothes and some
 8 materials.
 9 Q. And America was still living in the
 10 apartment?
 11 A. America was still living in the apartment.
 12 Q. Was she living in the apartment alone?
 13 A. Until the permanent restraining order was
 14 issued and she was given custody of her child, yes,
 15 she was living there alone.
 16 Q. So when was that?
 17 A. June 23rd.
 18 Q. June 23rd, there is an permanent
 19 restraining order?
 20 A. Yes.
 21 Q. On June 23rd, is anyone else living with
 22 America?
 23 A. Yes, her son now is living with her.
 24 Q. So now her son, the former client, is now
 25 living in your apartment?

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1 A. Yes, in the apartment, yes.
 2 Q. Okay.
 3 A. By now, we have come to an arrangement
 4 that it is obvious that she couldn't get any of her
 5 friends, or she has no family members, I said.
 6 Now, it is obvious, even before that, that look,
 7 just stay there. We agreed that she would pay for
 8 the rent, pay for the utilities, and I would just
 9 sublet this place to her.
 10 Q. Did you need permission from your landlord
 11 to sublet?
 12 A. No, I didn't seek permission to sublet.
 13 Q. Are you allowed to sublet on your lease?
 14 A. Yes, on my lease, yes, I can. I have a
 15 copy of the lease.
 16 Q. Now that Roger is living there, do you
 17 tell anybody at your work that Roger is living in
 18 your house?
 19 A. No, I did not.
 20 Q. Why not?
 21 A. Well, as far as I saw it, this is a
 22 decision -- well, she didn't make the decision, the
 23 judge made the decision but that's what it was.
 24 Q. Why not?
 25 A. Well, I have known of changes of address

1 my house or in that apartment that I own.
 2 Q. Did you ever have any type of relationship
 3 with America?
 4 A. I did not have any other type of
 5 relationship with America, except what I just
 6 stated here.
 7 Q. Did you ever kiss her?
 8 A. No.
 9 Q. Did you ever sleep in the same room as
 10 her?
 11 A. No.
 12 Q. You just let your client -- the only thing
 13 that you did is you let America and your former
 14 client living in your house?
 15 A. They are still living there, and I think
 16 that they will be there until the end of August.
 17 MR. MASCARI: Did you ever think that it
 18 might be an ethical violation to have your client
 19 live in the apartment that you are living?
 20 THE WITNESS: When Roger did move in, yes,
 21 I did consider that, yes, I did think about that.
 22 BY MS. BURGER:
 23 Q. What did you do?
 24 A. I didn't say anything until recently. I
 25 didn't do anything.

34

36

1 of other clients, and I don't go back saying I saw
 2 my client at the Pathmark. I don't -- you know,
 3 I've seen clients at Pathmark or ball games, at the
 4 pool and I don't go back --
 5 Q. How many clients have you let live in your
 6 house?
 7 A. No, none, ever.
 8 Q. That is a very unusual thing, isn't it?
 9 A. Yes, it is.
 10 Q. So then why wouldn't you tell anybody?
 11 A. I did not.
 12 Q. So now we're talking about June 23rd, and
 13 now Roger and America are living in your apartment?
 14 A. Yes, they are there.
 15 Q. And you are not living there?
 16 A. No, I am not living there.
 17 Q. How long do they continue living there?
 18 A. They are still there.
 19 Q. They are still there?
 20 A. Until this day, they are still there.
 21 Q. At some point, did you tell Tracy Hans or
 22 make some kind of notation in the record that they
 23 are living in your house?
 24 A. At no point did I tell Tracy Hans or make
 25 any notation in the record that they are staying in

1 Q. When you say recently, what happened
 2 recently?
 3 A. Until recently when this -- when I needed
 4 to respond to this inquiry, I realized that I
 5 should have.
 6 Q. Should have what?
 7 A. I should have called my boss and told
 8 her.
 9 DR. READING: Let me ask you a question
 10 about the family system that you are trying to work
 11 with here.
 12 Between Rodger's father mother or Roger,
 13 is there any substance abuse going on in that
 14 system at all?
 15 THE WITNESS: No, not at all. And he is a
 16 very sober man, doesn't drink one drop according to
 17 what the mother says.
 18 BY MS. BURGER:
 19 Q. So what were you treating Roger for
 20 originally, just disruption of family?
 21 A. Yes, and the reunification process, just
 22 preparing him making sure that he had processed
 23 what had happened well, seeing his comfort level in
 24 terms of safety, assuring him that hopefully this
 25 had been a one-time event.

37

39

1 DR. READING: If we were to speak to
2 Roger now and ask him who you were, what would he
3 describe you as?

4 THE WITNESS: He would call me Senior
5 Luis, which is what he has always called me and
6 calls me to this day. And he knows that I was his
7 counselor.

8 BY MS. BURGER:

9 Q. Did you ever go to school conferences for
10 Roger?

11 A. Yes, I did.

12 Q. How come?

13 A. The mother asked me. During this time --
14 well, right around this time, that's one of the
15 visits that I went to Neptune. During this time,
16 Roger was being seen by the Self Study Team, and
17 they wanted to talk to the mom, and she asked me if
18 I could go, and I did go with her.

19 Q. And how did you identify yourself?

20 A. I identified myself as being Rodger's
21 former counselor, just like that.

22 Q. How could you be his former counselor if
23 you were showing up at the meeting? Didn't that
24 imply that you were his counselor, that you were
25 going to the meeting?

1 battery group on Tuesdays.

2 I also worked to alternatives to domestic
3 violence in Bergen County from 2003 to 2005. One
4 of the things that happens especially in my
5 community, which is -- for 11 years, this lady was
6 abused by this man, since the age of 16. America
7 walks with a limp because he has, and I'm not a
8 medical doctor, this is her complaint.

9 He beat her with steel-toed tip boots to
10 the point that she could not get out of bed for
11 seven days. Because she is undocumented, has no
12 license, no Social Security, this, again, happens
13 in my community more than others, because they are
14 afraid to be deported. And, yes, to answer your
15 question, yes, I believe so.

16 And finally, after 11 years, she speaks
17 out. And the first judge, and I don't want to say
18 anything discriminatory because he was a male,
19 finds no -- yes, the answer is yes, I believe that
20 there was a pattern of abuse, and it was there.
21 And sadly enough, it has happened to my daughter,
22 and it has happened to my family, and I have seen
23 it.

24 I should have called my boss the first day
25 she called me. I understand that now. Well, maybe

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1 A. We told -- America asked me as the
2 interpreter to tell the school team, the Self Study
3 Team that there had been domestic violence, and the
4 school was given a copy of the restraining order.

5 Q. So there was a new domestic violence issue
6 that the father was accused of domestic violence,
7 and, in fact, there was a permanent restraining
8 order.

9 So how come no counselor was assigned to
10 Roger to deal with that issue?

11 A. I don't think that the judge issued a
12 counselor.

13 Q. You weren't asked to counsel him on the
14 second issue?

15 A. No, I wasn't.

16 Q. Was anyone?

17 A. I believe not, no.

18 MR. MASCARI: Do you consider that this
19 family system has been an ongoing pattern of abuse
20 or potential abuse?

21 THE WITNESS: Let me just go back a little
22 bit. Thank you for asking that, because from 1997
23 to 2001, I worked at the crisis center at UBAC. We
24 ran a domestic violence program, ran a rape group
25 with Alan Crawly every Wednesday. And I ran a

1 not that day because it was like 2:00 in the
2 morning, but I should have called the next day, and
3 I told Tracy this. I feel terrible.

4 MS. BURGER: What else did you tell her?

5 THE WITNESS: But I am not ashamed of what
6 I did. Maybe of the way I did it, it was stupid --
7 excuse me, dumb. I did not see her as my client,
8 maybe as a daughter. She is 27 years old, my
9 daughter is 26. This man made so many allegations
10 and called DYFS on her six times, you can call the
11 DYFS worker, called the police on her just because
12 she didn't want to have sex with him.

13 Call America and ask her. Look at the
14 transcript from the judge. I was there, that's
15 available. See the evidence. He alleged her to
16 have -- and called her many bad things, I'm not
17 going to repeat this. Even showed me E-mails that
18 she had from February 2008 alleging that she had
19 some other lover from the hotel where she works at,
20 more than one man. One of the guy's name was Luis
21 and the other guy's name was Domingo.

22 And when he saw me helping her, and he
23 knew me, he knew me. He started alleging to his
24 family and her family that now I had become the new
25 one. You know, I should have told my boss, I

41

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1 should have. I did not believe this to be a case
2 of the case, do you understand? And this was very
3 personal.

4 And I figured, you know what, she's got a
5 restraining order, she will do well, let me help
6 her out until August. She wants to move back to
7 the district where the child goes to school. I'll
8 help with that, and I'll be back to my apartment,
9 rent it out, sublet it to somebody else, I really
10 don't want to go back.

11 BY DR. READING:

12 Q. Is this just a summer rental, or do you
13 rent it out during the year as well?

14 A. I try to rent it on a month to month. And
15 I had to sign a six-month lease, so I'm stuck with
16 six months. Well, not stuck, it is beautiful. I
17 have a bike. I went twice to the beach this
18 summer, you know.

19 Q. Is she paying you, and then you are paying
20 the rent then?

21 A. Yes. And her aunt and uncle from
22 California and her other aunt from Chicago are
23 subsidizing the rest, because she doesn't make
24 enough.

25 MR. MASCARI: And is she paying you the

1 THE WITNESS: The aunt gives her the money
2 and she pays me and I pay the landlord.

3 MR. MASCARI: So you are not making any
4 profit?

5 THE WITNESS: No. Oh, I see your
6 concern. No way.

7 MR. MASCARI: No, I'm just asking. It is
8 important for clarification.

9 THE WITNESS: I understand. No, I am not
10 making a profit. If anything, she could barely
11 afford it.

12 BY DR. READING:

13 Q. In your training, what is your college
14 background?

15 A. I have a master's degree in applied social
16 and community psychology from Fairleigh Dickinson
17 University. I graduated in 1999.

18 Q. In your course work, did they have any
19 specific course work or part of a course work that
20 dealt with transference and countertransference?

21 A. Yes, they did.

22 Q. And did you see any transference or
23 countertransference?

24 A. Not in the intimate sense, there was no --
25 I want to make sure that that never happened.

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1 same amount, the exact amount of what the rent is?

2 THE WITNESS: Very close.

3 BY MS. BURGER:

4 Q. How much is she paying you?

5 A. Well, the rent last time was -- by the way
6 this is rent, plus utilities, and now she has a
7 dog, so it is \$50 for the dog. She paid 15,
8 because he was only there 15 days. So last month
9 it was \$996. The rent was -- I don't remember the
10 breakdown, but I do have it. But it was \$996
11 total.

12 Q. That she paid you?

13 A. That she paid me. That's how much it
14 was.

15 Q. How much do you pay for rent there?

16 A. \$996 exactly. And I know she doesn't
17 have -- that's not easy for her, but her aunt is
18 subsidizing, I know that her aunt is helping her
19 out.

20 Q. You have to pay \$50 extra because there is
21 a dog there?

22 THE WITNESS: The lease says if you have a
23 pet it's \$50 more.

4 DR. READING: So does the aunt pay you, or
25 the aunt pays her?

1 Q. Well, transference and countertransference
2 doesn't necessarily --

3 A. I understand, and that's why I want to be
4 clear. Domestic violence, I'm a child of domestic
5 violence. It is a very, very close to my heart
6 issue, and I try to stay as objective as I can and
7 help as best as I can. I can't deny to you that it
8 doesn't hurt or bring back some sentiment to see
9 these things that go on, especially in my
10 community.

11 BY MS. BURGER:

12 Q. Were you ever married?

13 A. Yes, I was.

14 Q. Are you presently married?

15 A. No, I'm not.

16 Q. Are you divorced?

17 A. Yes, I am.

18 BY MR. MASCARI:

19 Q. Now, you know that under the terms of your
20 license, you needed to get regular ongoing
21 supervision.

22 A. And I do.

23 Q. So if you knew that this issue was
24 something personal, did you not think that you had
25 an obligation to talk to your supervisor about it?

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1 A. Again, looking back at it, yes, I should
2 have. I should have not only consulted with
3 supervision after it happened, I should have called
4 my supervisor the next morning from the first day
5 that she called and that I went down and took her
6 to the police station.

7 BY MS. BURGER:

8 Q. Are you presently in any counseling?

9 A. No.

10 Q. You are not in any therapy?

11 A. No.

12 Q. And when was the last time you were in
13 therapy?

14 A. Last year.

15 Q. When?

16 A. Around this time, May, and then a
17 psychological evaluation in August.

18 Q. Did you ever think about calling the
19 therapist and discussing it with the therapist?

20 A. I go to church regularly, and I have
21 friends who are priests. Father Jack Martin and
22 Gregory Studeros.

23 Q. Did you discuss it with the priest?

24 A. Yes, I did.

25 Q. What did you tell him?

1 MR. MASCARI: Have you ever -- you said
2 you were a victim of domestic violence as a child,
3 have you ever dealt with that in therapy?

4 THE WITNESS: Yes, I did. Dr. Tom
5 Coleman, 1991.

6 BY MS. BURGER:

7 Q. Now, you told us earlier that there was
8 someone named Erica that was your girlfriend?

9 A. Yes.

10 Q. When was she your girlfriend?

11 A. We dated. And you can say girlfriend, but
12 she probably would say not, but we did date for --

13 Q. From when to when?

14 A. I would say from April to June.

15 Q. April to June of what year?

16 A. Of this year, recently.

17 Q. And what does Erica do?

18 A. She is also -- she cleans rooms and cleans
19 houses.

20 Q. Oh, she is not a therapist?

21 A. No.

22 Q. And where does she live?

23 A. She lives in Neptune City, New Jersey.

24 Q. Now, is she friends with America?

25 A. Yes, she knows America. She is not

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1 A. I told him everything, just like I am
2 telling you.

3 Q. What did you tell him?

4 A. That I was helping out America in the
5 sense that I have told you.

6 Q. Why did you tell the priest?

7 A. For me, it is important that even though I
8 didn't consider her to be a client, in my personal
9 life it is important that I make sure that I
10 discuss what is going on with me, and I do that.

11 Q. Maybe it's because I'm not Catholic, so I
12 don't understand it, but I'm under the
13 understanding that what you talk about with a
14 priest are things that you tend to have thought
15 that you did wrong.

16 A. We have a word for that as a Catholic, it
17 is called confession.

18 Q. Right, so --

19 A. This is not a confession, I am talking to
20 my friend who is a priest, Jack Martin. By the
21 way, when I have a confession, I don't go to Jack.
22 I don't know if there is anything wrong with that.

23 Q. Who do you go to?

24 A. To the private who is on duty on that
25 Saturday.

1 friends with her, but she knows her, yes.

2 Q. How come they know each other?

3 A. One of the jobs that they have is in the
4 same hotel.

5 Q. What a coincidence, right --

6 A. Yes.

7 Q. -- that your girlfriend, the person that
8 is your girlfriend, and the person that you are
9 helping happen to work in the same place?

10 A. Yes.

11 MR. MASCARI: Did this incident with
12 America have an impact on the relationship with
13 Erica?

14 THE WITNESS: No, I don't think so.
15 Things with Erica weren't working really, that's
16 the truth, I have to admit that. So from the
17 beginning, it was dating, so it didn't --

18 MS. BURGER: Did Erica think that you were
19 having a relationship with America?

20 THE WITNESS: No, no, I don't think so,
21 no.

22 MR. MASCARI: Then we have Areliis
23 Hernandez.

24 THE WITNESS: Yes.

25 MR. MASCARI: Who is she?

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1 THE WITNESS: Arelis Hernandez was my
2 live-in girlfriend from 2003 until 2008.
3 BY MS. BURGER:
4 Q. And why did that end?
5 A. We had a lot of differences. We had a lot
6 of differences.
7 Q. Such as?
8 A. I think what we wanted in relationships
9 were very different things.
10 Q. But it had nothing to do with Erica?
11 A. No, not at all, it was way before that.
12 Q. What does Arelis Hernandez do?
13 A. She is a therapist.
14 Q. And where does she work?
15 A. Elizabeth High School.
16 Q. What is the name of the agency?
17 A. I think she works for a program in
18 Elizabeth High School, it is called the Yes
19 Program.
20 MR. MASCARI: That is school based?
21 THE WITNESS: It is a school-based
22 program, yes.
23 BY MS. BURGER:
24 Q. Does she know that America was living in
25 your apartment?

1 Q. And what did you do when she told you
2 that?
3 A. That was two days before this.
4 Q. So when Arelis told you that, did you
5 immediately call Tracy and tell Tracy?
6 A. No, I did not.
7 Q. Why not?
8 A. I did consider it. Again, going back, I
9 know I should have called, and now it was clear.
10 When Arelis said this, I said, you know what, she's
11 right, I should have called.
12 MR. MASCARI: So are you suspended or
13 terminated?
14 THE WITNESS: Right now I am suspended
15 pending the outcome of this Committee and this
16 Board.
17 MR. MASCARI: And the suspension is based
18 on what?
19 THE WITNESS: Based on the -- I guess
20 whoever called. And whoever called, based on that
21 allegation that I have someone living in my rental
22 that is the mother of a child that was my client.
23 MS. BURGER: I'm going to show you two
24 documents that we have copies of, and if the
25 reporter doesn't mind, I'm going to call one of

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1 A. Yes.
2 Q. How did she know that?
3 A. I told her.
4 Q. How come you told Arelis that America was
5 living in your house, and, yet, you didn't tell
6 your supervisor?
7 A. At one point and several points, several
8 times, I went back with Arelis trying to work
9 things out.
10 Q. So how come you told her?
11 A. She would always ask, how are you doing,
12 where you at, what's going on, that kind of
13 information.
14 Q. Did Arelis know Tracy Hans?
15 A. Yes, she did.
16 Q. Were they friends?
17 A. I think. Arelis also worked for
18 Therapeutic Alliance Group for several months, or
19 maybe more than several months.
20 MR. MASCARI: Did Arelis ever say to you
21 when you told her this, you need to talk to
22 someone, or you're on dangerous ethical grounds or
23 anything of that nature?
4 THE WITNESS: Yes, she did.
25 BY MS. BURGER:

1 them S2 and one of them S3.
2 (Whereupon, Exhibits S2 and S3
3 marked for identification.)
4 BY MS. BURGER:
5 Q. Now, I'm having you look at S2.
6 A. Yes.
7 Q. Whose name is the top of that page?
8 A. Luis Hernandez.
9 Q. Who prepared S2?
10 A. I did.
11 Q. And S2 is almost identical to S1 (sic); is
12 that correct?
13 A. Yes, I'm sure it is, yes.
14 Q. No, it is different?
15 A. Okay, it is almost identical, but yes.
16 Q. It looks like a little bit different
17 typing, or is it the same document?
18 A. No, it's the same document.
19 Q. And the reason why it looks different is
20 it was sent by fax or something?
21 A. Yes, I think so, yes.
22 Q. But S2 has your signature?
23 A. Yes, it does.
24 Q. Who prepared S2?
25 A. I did.

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1 Q. Now, I'm going to show you S3.
 2 Who prepared S3?
 3 A. I did, it is the same document.
 4 Q. Is it exactly the same document?
 5 A. No, no, on the bottom there is — I
 6 changed the bottom.
 7 Q. So read me the last line of S3.
 8 A. Of S3 it says, "the relationship with
 9 Ms. Ramos or any other member of this or any other
 10 family that I have treated, counseled, consulted
 11 or" — yes, this is my — that's a mistake. This
 12 was a draft I sent it to — and I made a mistake.
 13 But I sent it to Tracy and she said Luis, you need
 14 to make a correction, that's not clear. And then I
 15 made the correction and this is the corrected one.
 16 I'm sorry about that.
 17 Q. So despite the fact it says that you have
 18 been intimate with Ms. Ramos, you are saying that's
 19 not true?
 20 A. That is not true and that is clearly a
 21 mistake, and that was my mistake.
 22 Q. Okay. The Committee is asking that we
 23 take a five-minute break.
 24 A. Okay.
 25 Q. We're going to ask that you step outside

1 Q. Did you receive a letter from the
 2 Committee saying it was okay to end your therapy?
 3 A. No, I never received a letter like that,
 4 no.
 5 Q. Because the consent order says that you
 6 shall continue in therapy and continue writing
 7 reports until the therapist writes a report saying
 8 that there is no longer a need for therapy, and
 9 then the Committee has to approve that
 10 termination.
 11 A. Okay.
 12 Q. Were you aware of that?
 13 A. No, I was not.
 14 Q. When was the last time you looked at the
 15 consent order?
 16 A. Probably last year when I first got it.
 17 Q. That's what the consent order says.
 18 A. All right.
 19 Q. So you were supposed to remain in therapy
 20 until the Committee approved your end to your
 21 therapy. You will look at paragraph 2 on page 3 of
 22 the consent order.
 23 DR. READING: Also in the consent order
 24 there was an initial directive to go to the prime
 25 ethics course. And do you recall that they were

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1 for five minutes, and then we'll continue.
 2 A. Okay.
 3 Q. But please understand that you are still
 4 under oath, and we are going to have a couple more
 5 questions for you.
 6 A. I understand.
 7 Q. You can take your water or anything out
 8 there, and we'll be back with you in five minutes,
 9 so just wait outside. Thank you so much.
 10 (Whereupon, break taken.)
 11 BY DR. READING:
 12 Q. Luis, we have a question.
 13 When you were in therapy, who were you in
 14 therapy with?
 15 A. Oh Lord, her name slips my mind right now,
 16 but —
 17 Q. When you terminated —
 18 A. But I can get that for you.
 19 Q. When you terminated therapy last year, why
 20 did you terminate therapy?
 21 A. It was mostly economic was one, that's the
 22 truth, it was a lot of money. And second, the
 23 issues that I had discussed with her, I thought
 24 were pretty much resolved.
 25 BY MS. BURGER:

1 not thinking that you were a good candidate for
 2 that course, but did you take any other ethics
 3 course in the meantime?
 4 THE WITNESS: No, not yet.
 5 MS. BURGER: Don't you think that would be
 6 very helpful?
 7 THE WITNESS: Yes, and I welcome — yes, I
 8 have taken some other ethics course, several
 9 actually at the NJCA counseling conference.
 10 BY DR. READING:
 11 Q. Do you mean workshops?
 12 A. Yes, workshops, not courses, correct.
 13 Q. Can you also send us copies of those
 14 certificates?
 15 A. Yes, I can.
 16 Q. So the name of the therapist, name and
 17 address of the therapist.
 18 A. Yes.
 19 Q. When you discontinued therapy, was that a
 20 good termination, or was there any hostility?
 21 A. No, not at all, it was a good termination
 22 and an excellent therapist, I may add. I think she
 23 was very well referred, and she was the head of the
 24 outpatient in Beth Israel. I can't remember her
 25 name.

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1 BY MS. BURGER:

2 Q. If you had a problem now, would you
3 consider calling her?

4 A. You know, I would consider re-engaging
5 with her.

6 Q. But you left it open that when have an
7 issue you could call her?

8 A. Yes, and so did she.

9 Q. At this point, we always give you an
10 opportunity to tell us something we didn't ask you
11 or sum up.

12 A. Again, I want to start by this thing
13 here. Obviously an error -- and I'm pointing to S3
14 and S2, the difference is one is definitely a
15 draft. And I sent it to Tracy, and we E-mailed
16 back and forth and she said Luis, make sure that --
17 this doesn't seem right. And I looked at it and
18 she's right, it doesn't seem right. And I
19 corrected it, and I E-mailed, as an attachment, the
20 other one, the S2. So that second -- I did realize
21 talking to Father Jack Martin --

22 Q. Talking to who?

23 A. Father Jack Martin, my friend, Jack
24 Martin, the priest that I mentioned, talking to
25 Arelis, and even before that I should have

1 what else can I say.

2 Q. Thank you. Do you want to wait outside
3 for about five minutes?

4 A. Okay.

5 (Whereupon, the proceeding
6 concluded at 1:51 p.m.)
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1 obviously helped her out in different ways. There
2 is much more that I could have done, and definitely
3 should have called. I did -- should have called at
4 least Tracy, if not the Board.

5 Q. Just one more, sorry to interrupt you.
6 Did they ever tell you in school if you don't write
7 it down it didn't happen?

8 A. Yes, many times Dr. Ronald Coleman, Robert
9 Lin, Dr. Judith Waters, Dr. Robert Percley, yes.

10 Q. They all told you that?

11 A. Yes, and I'm sure others as well.

12 Q. Continue, I'm sorry to interrupt you.

13 A. And that was it, that I know that there is
14 no doubt in my mind now -- there is no doubt in my
15 mind that I should -- probably documentation would
16 have -- at least documentation, and even more --
17 called for, I should have went right to my
18 supervisor.

19 I should have saw it, especially knowing
20 that my license, the process, the position that my
21 license is, which is restricted and ongoing. You
22 know, especially someone like me that has been in
23 this position. If anyone should have, it should
24 have been me. If anyone should have, it should
25 have been me, no doubt about that. And that's --

1 CERTIFICATE

2 I, JUSTIN DAVIS, certify that the foregoing is
3 a true and accurate transcript of the testimony as
4 taken stenographically by and before me at the
5 time, place and on the date herein before set
6 forth.

7 I DO FURTHER CERTIFY that I am neither a
8 relative nor employee nor attorney nor counsel of
9 any of the parties to this action, and that I am
10 neither a relative nor employee of such attorney or
11 counsel, and that I am not financially interested
12 in the action.
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